-12-

REMARKS

The Examiner has rejected Claims 1-37 under 35 U.S.C. 103(a) as being unpatentable over CNN (http://www-cgi.cnn.com/TECH/computing/9907/21/badrap.idg/). Applicant respectfully disagrees with such rejection for the reasons stated below.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck,* 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991). Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met.

Specifically, regarding independent Claim 1 et al., the Examiner states that encrypting information is well known in the art for the motivation of hiding information from a hacker who appears to be using a malicious code to seize control of a system, and acknowledges that CNN does not teach encrypting information, as claimed by applicant. Applicant respectfully disagrees with this assertion.

In invoking such Official Notice, the Examiner has failed to recognize the full weight of applicant's claims. Specifically, applicant teaches and claims encrypting information relating to malicious code, and not simply encrypting *any* information in order to hide it from a hacker. Applicant thus formally requests a specific showing of the subject matter in ALL of the claims in any future action. Note excerpt from MPEP below.

-13-

"If the applicant traverses such an [Official
Notice] assertion the examiner should cite a
reference in support of his or her position." See
MPEP 2144.03.

Further, the Examiner has relied on the following excerpt from CNN to make a
prior art showing of applicant's claimed "sending the encrypted information relating to
the malicious code to a plurality of remote locations utilizing the network; and blocking
instances of the malicious code at the remote locations for a predetermined amount of
time based on the information":

"It's just another Trojan horse for us," says
Darren Kessner, Symantec's senior virus
researcher. "Most Trojans are delivered as
attachments in e-mail, and with our Norton Anti-
Virus product, you now have an option to destroy
or quarantine them in order to send them to our
researcher."

Again, applicant respectfully disagrees with this assertion. CNN simply states that
when a Trojan is found at a local location, a user has the option to either destroy that
Trojan at the local location or quarantine the Trojan in order to send it to a researcher.
Thus, CNN does not even suggest sending encrypted information relating to the
malicious code to a plurality of remote locations, nor does it suggest blocking instances
of the malicious code at those remote locations for a predetermined amount of time based
on the information. CNN thus fails to give any indication that encrypted information
relating to identified malicious code is sent to multiple remote locations such that those
locations can block instances of the malicious code for predetermined amounts of time.

Applicant respectfully asserts that at least the third element of the *prima facie*
case of obviousness has not been met, since the prior art reference fails to teach or

-14-

suggest all the claim limitations. To this end, all of the pending independent claims are deemed allowable, along with any dependent claims dependent therefrom. A notice of allowance or a specific prior art showing of each of the foregoing limitations, in combination with the remaining claim elements, is respectfully requested.

CNN is further deficient with respect to applicant's dependent claims. For example, the Examiner also relies on the above excerpt to make a prior art showing of applicant's claimed, "wherein the information relating to the malicious code includes an identification of the source of the malicious code, wherein communications originating at the identified source are denied access to the remote locations for the predetermined amount of time" (see same or similar claim language in Claims 3, 12-13 and 21, for example). Applicant respectfully disagrees with this assertion.

Specifically, applicant claims denying access to remote locations by the malicious code to remote locations based on the identified source for a predetermined amount of time. This is vastly different from CNN's suggestion of simply destroying a Trojan at the local location it was discovered, or quarantining such Trojan. Clearly, the malicious code described in CNN is not being denied access based on an identified source for a predetermined amount of time.

With respect to dependent Claims 4-8, 14-16, 20, 22-25 and 29-34, the Examiner has simply dismissed the same under Official Notice. In response, applicant again points out the remarks above. Applicant thus formally requests a specific showing of the subject matter in ALL of the claims in any future action. Again, note the excerpt from MPEP below:

> "If the applicant traverses such an [Official Notice] assertion the examiner should cite a reference in support of his or her position." See MPEP 2144.03.

-15-

Again, applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, <u>since the prior art reference fails to teach or suggest all the claim limitations</u>. A notice of allowance or a specific prior art showing of each of the foregoing limitations, in combination with the remaining claim elements, is respectfully requested.

Still yet, applicant brings the Examiner's attention to the following subject matter in the added dependent claims, for full consideration:

"wherein the information includes a type, context, protocol, severity, reporting server, and IP address associated with the malicious code" (see Claim 38);

"wherein the type is selected from the group consisting of an unwanted message attempt, and a denial of service attack" (see Claim 39);

"wherein the context is selected from the group consisting of a virus name, a subject, a mail header, and a magic number for a message" (see Claim 40);

"attempting to identify a source of the malicious code, and, if the source is identified, retrieving information about the source from a database" (see Claim 41); and

"wherein additional information relating to the malicious code is retrieved from a database if the malicious code is not identified in conjunction with an event at the local location on the network" (see Claim 42).

Again, a notice of allowance or a specific prior art showing of each of the foregoing limitations, in combination with the remaining claim elements, is respectfully requested.

Reconsideration is respectfully requested.

-16-

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. Applicants are enclosing a check to pay for the added claims. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAIIP025).

                              Respectfully submitted,
                              Zilka-Kotab, PC

                              Kevin J. Zilka
                              Registration No. 41,429

P.O. Box 721120
San Jose, CA 95172-1120
408-505-5100